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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/997,968	11/28/2001	Khoi Hoang	60595-300601	5003
25696	7590	02/07/2006	EXAMINER	
OPPENHEIMER WOLFF & DONNELLY P. O. BOX 10356 PALO ALTO, CA 94303			VAN HANDEL, MICHAEL P	
			ART UNIT	PAPER NUMBER
			2617	

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Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/997,968	<b>Applicant(s)</b> HOANG, KHOI	
	<b>Examiner</b> Michael Van Handel	<b>Art Unit</b> 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☒ Claim(s) 20,21,23,25 and 28 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## DETAILED ACTION

### *Claim Objections*

1. Claims **20, 21, 23, 25**, and **28** are objected to because of the following informalities:

Referring to claim **20**, the examiner notes that there are two claims listed as claim 20, the first of which is dependent on claim 19. The examiner further notes that the preamble of this claim is improper. Specifically, the preamble of the first claim numbered 20 is “the method of claim 19,” which is inconsistent with the preamble of claim 19, “the apparatus of claim 18.” The examiner assumes that this claim was submitted by mistake and will examine the second claim 20, which is an independent claim. The examiner addresses the claims in the following office action as though the suggested changes have been made.

Referring to claims **21, 23**, and **25**, the examiner notes that claim 21 is dependent on claim 19, claim 23 is dependent on claim 21, and claim 25 is dependent on claim 23; however, claims 23 and 25 are essential duplicates of claims 17 and 19. The examiner assumes that the applicant intended claim 21 to be dependent on claim 20. The examiner addresses claims 21, 23, and 25 in the following office action as though the suggested changes have been made.

Referring to claim **28**, the examiner notes that the preamble of this claim is improper. Specifically, the preamble of claim 28 is “the apparatus of claim 26,” but the preamble of claim 26 is “a data on demand (DOD) broadcast system.” The examiner assumes that the applicant intended claim 28 to be dependent on claim 27, and addresses the claim in the following office action as though the suggested changes have been made.

Appropriate correction is required.

***Double Patenting***

2. Applicant is advised that should claims **17** and **19** be found allowable, claims **23** and **25** will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims **1-28** are rejected under 35 U.S.C. 102(e) as being anticipated by Birk et al.

Referring to claim 1, Birk et al. discloses a data-on-demand (DOD) broadcast method for transmitting a client generic sequence of data blocks (col. 3, l. 20-29), comprising the acts of:

- preparing a client generic data transmission sequence of data blocks, wherein said client generic data transmission sequence has a sub-optimal time delivery characteristic (col. 3, l. 6-67)(Fig. 2);
- transmitting a data file consisting of said sequence of data blocks in accordance with said sub-optimal transmission sequence to a plurality of clients in a non

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client specific manner (col. 3, l. 30-31), such that a receiving client may begin to access said data file within a predetermined time period (col. 4, l. 24-29).

Referring to claim 2, Birk et al. discloses the method of claim 1, wherein said predetermined time period has a duration, and wherein said duration is responsive to information included in at least one of said sequence of data blocks (col. 5, l. 7-15).

Referring to claim 3, Birk et al. discloses the method as recited in claim 1, whereby transmission of said data file requires an amount of transmission bandwidth that is independent of the number of said plurality of clients (col. 3, l. 60-67).

Referring to claim 4, Birk et al. discloses a method as recited in claim 3, wherein the act of preparing said sub-optimal data transmission sequence includes the acts of:

- receiving a data file (col. 10, l. 55-58);
- specifying a time interval and parsing said data file into a plurality of data blocks based on said time interval, such that each data block is displayable during said time interval (col. 10, l. 40-47);
- determining a required number of time slots (n or L) to send said data file, wherein each of said time slot has a duration substantially equal to said time interval (col. 3, l. 60-67)(col. 7, l. 7-8);
- allocating to each time slot at least one of said plurality of data blocks (Fig. 2).

Referring to claim 5, Birk et al. discloses the method of claim 4, wherein a client may access said transmitted data file within a predetermined number of said time slots (for example, segment 2 could be displayed after the first 2 time slots of segment 1)(col. 4, l. 49-51)(Fig. 2).

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Referring to claim 6, Birk et al. discloses the method as recited in claim 5, wherein said predetermined number of time slots is one (segment 1 could be displayed after one time slot of segment 1)(Fig. 2).

Referring to claim 7, Birk et al. discloses a method as recited in claim 5, wherein said predetermined number of time slots is at least two (segments 2-14 could be displayed after at least two of the time slots for segment one)(Fig. 2).

Referring to claim 8, Birk et al. discloses the method of claim 5, wherein said number of time slots is indicative of a selected bandwidth (col. 3, l. 57-60)(col. 7, l. 3-35).

Referring to claims 9, 16, and 22, Birk et al. discloses the methods of claims 1, 14, and 20, respectively, including transmitting an electronic program guide (EPG)(menu of offered programs), wherein said EPG enables a receiving client to select a desired data file for viewing (col. 10, l. 1-5).

Referring to claim 10, Birk et al. discloses the method of claim 9, wherein said EPG indicates a delay time for receiving a selected data file (col. 5, l. 7-15).

Referring to claims 11, 12, 14, 15, 20, 21, 26, and 27, Birk et al. discloses a method for receiving data files transmitted as a sub-optimal data block sequence, comprising the acts of:

- broadcasting a plurality of data files (col. 3, l. 30-31, 44-46);
- receiving a user input indicating at least one selected data file (col. 10, l. 1-5);
- authorizing a file retrieval process, through the use of a communications port (inherent), to retrieve at least one data block of the data file during a first time interval (col. 10, l. 1-8);

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- storing at least one of a plurality of said sub-optimal data block sequence in a memory location during a predetermined time period and displaying at least a first portion of said data file to a user after said predetermined time period has elapsed (col. 4, l. 43-52); and
- receiving at least one additional data block of said plurality of data blocks of said sub-optimal data block sequence, storing the at least one additional data block in a memory location, and displaying at least a second portion of said data file to said user by combining at least one of said stored data blocks with said at least one additional data block (col. 9, l. 43-48).

Referring to claim **13**, Birk et al. discloses the method of claim 11, further comprising determining a waiting time necessary before playing said data file assure that data blocks corresponding to said data file are received before they are scheduled to be played (col. 5, l. 7-15).

Referring to claims **17**, **18**, **23**, and **24**, Birk et al. discloses the apparatus of claims 16 and 21, respectively, wherein the user STB automatically determines a download time and a play time from data transmitted with the EPG corresponding to the file selection by the user and automatically displays at least a portion of said file after a waiting period, said waiting period duration being automatically calculated according to said download time and said play time (col. 3, l. 39-56)(col. 4, l. 24-29)(col. 5, l. 7-15).

Referring to claims **19** and **25**, Birk et al. discloses the apparatus of claims 18 and 23, respectively, wherein said waiting period is further responsive to the number of data blocks

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comprising said file (the examiner notes that the download time is defined by the number of segments that are transmitted)(col. 3, l. 60-67).

Referring to claim 28, Birk et al. discloses the apparatus of claim 27, wherein said processor is further operative to automatically begin displaying said selected data file when a minimum portion of said selected data file has been received (col. 4, l. 49-51).

### *Conclusion*

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Toriumi discloses a sing-along data transmitting method and a sing-along data transmitting/receiving system.

Taniguchi et al. discloses a video/audio data device that supplies karaoke data.

Shojima discloses a data broadcasting system, which is capable of shortening the waiting time until objective data is received in a receiving apparatus and for transmitting the objective data at a faster transmitting speed.

Matsumoto discloses a music play apparatus with advance resetting for subsequent playing.

Ikami et al. discloses a one-way data transmission system in which the center serially and cyclically transmits a plurality of information data to terminals.

De Bey discloses a system and method for optimizing transmission of a program to multiple users over a distribution system, with particular application to video-on-demand for a CATV network.




Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Van Handel whose telephone number is 571.272.5968. The examiner can normally be reached on Monday-Friday, 8:00am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on 571.272.7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Michael Van Handel  
Examiner  
Art Unit 2617

MVH

  
CHRIS KELLEY  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600